CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	▼ For	ce	<u> </u>	Discourt.		U.S.
Inessa Abayev		Team # 8	200903797	Ab	use		O.L.	V	Injury
Incident Date(s)		Location of Incident:	•	Preci	nct:	18	Mo. SOL		EO SOL
Sunday, 03/08/2009 3:00 PM		§ 87(2)(b)		83	3	9	/8/2010	9	9/8/2010
Date/Time CV Reported		CV Reported At:	How CV Reported	Dat	e/Time	Rece	ived at CCI	RB	
Tue, 03/10/2009 3:39 PM	09 3:39 PM IAB		Phone	Thu	Thu, 03/12/2009 3:15 PM				
Complainant/Victim	Type	Home Addre	ess						
Witness(es)		Home Addre	ogg						
witness(es)		Home Addre	255						
Subject Officer(s)	Shield	TaxID	Command						
1. POM Jonathan King	16234	925546	083 PCT						
2. POM Sean Claxton	06594	943092	083 PCT						
Officer(s)	Allegati	on			Inve	stiga	tor Recon	nme	endation
A.POM Sean Claxton	Force: P § 87(2)(b)	Force: PO Sean Claxton used physical force against § 87(2)(b)							
B.POM Jonathan King	Force: P § 87(2)(b)	Force: PO Jonathan King used physical force against \$ 87(2)(b)							
C.POM Sean Claxton	Off. Language: PO Sean Claxton made remarks to §87(2)(b) based upon the sex of §87(2)(b)								
D.POM Sean Claxton	Discourtesy: PO Sean Claxton spoke obscenely to §87(2)(b)								

Case Summary

filed this compliant with IAB on March 10, 2009 (encl 4a-4b). The CCRB received this complaint on March 12, 2009 (encl. 5a-5b).
At approximately 3:00 p.m. on March 8, 2009, PO Sean Claxton and PO Jonathan King of
the 83 rd Precinct received a radio communication regarding a dispute between \$87(2)(5)
and \$87(2)(b) in front of \$87(2)(b) in Brooklyn. \$87(2)(b) was arrested by PC Claxton at the incident location for \$87(2)(b) but not charged. The following is alleged:
• Allegations A and B- Force: PO Sean Claxton and PO Jonathan King used physical force against \$87(2)(9) while placing her under arrest. \$87(2)(9)
winte placing her under direct
Allegation C- Offensive Language: PO Sean Claxton directed offensive language based
upon sex at § 87(2)(b) \$ 87(2)(g)
Allered in D. Director DO Co. of Classic and Section 1 and Section 1
• Allegation D- Discourtesy: PO Sean Claxton used profanity with \$87(2)(6)
Results of Investigation
<u>Civilian Statement(s)</u>
Clarente in and a SOZIOVA
Complainant: §87(2)(b) • §87(2)(b) filed this complainant on behalf of this sister, §87(2)(b) on March 10, 2009.
with IAB. \$87(2)(b) \$\ \\$87(2)(g)
Victim: § 87(2)(b)
• \$87(2)(b) is a \$87(2)(b) -old Hispanic female with dark brown hair and dark eyes. She weighs 158 pounds and is 5'2" tall.
• \$87(2)(b) was interviewed at the CCRB on April 9, 2009 (6a-6e).
Shortly prior to 3:00 PM on March 8, 2009, \$87(2)(b) took possession of a cell phone she had
purchased a earlier ago for her boyfriend, \$87(2)(b) He followed \$87(2)(b) to her
apartment and demanded that she return it, but she refused. \$87(2)(b) went into her apartment, at which point \$87(2)(b) warned that he would call the police. At 3:00 p.m., \$87(2)(b) exited her
apartment and saw that two uniformed police officers, who have been identified as PO Sean Claxton and PO Jonathan King of the 83 rd Precinct.
stood in the exterior doorway of the house, and PO Claxton approached her and asked if she had \$87(2)(6) so cell phone. She confirmed that she did, but stated that she had
purchased the phone. PO Claxton asked where the cell phone was; she responded that it was inside her home. PO Claxton said, "Can you give it back to him?" responded that she would
not as she had purchased it. He asked \$87(2)(b) again to return \$87(2)(b) again refused, repeating that she had paid for it. PO Claxton remarked to PO King, "That's
larceny." PO Claxton said, I'm going to ask you one more time, are you going to get the phone,
yes or no?" §87(2)(b) responded that she would not.

PO Claxton approached \$87(2)(b) grabbed her left wrist and attempted to pull her out of the house by her wrist, but \$87(2)(b) pulled back. PO Claxton pulled her a second time, and turned her around so that he was behind her. \$87(2)(b) said, "What are you doing? My son is inside." PO Claxton was still holding onto her left wrist, and with that hand he pushed her hard into the wall. They were just inside the home's entrance at this point, and the exterior door was open. \$87(2)(b) s left breast impacted the wall. \$87(2)(b) started to scream, "What are you doing? My son is inside. Can we relax?" PO Claxton replied, "Relax bitch, relax." \$87(2)(b) s \$87(2)(b) old son was on the other side of the glass door, watching the incident. PO Claxton placed \$87(2)(b) in handcuffs and pulled her outside of the house. As they exited, three to four additional police cars arrived at the location containing ten officers.

A Hispanic male officer, LT1, who was sitting in a patrol car started speaking to \$37(2)(b) in Spanish and said that she needed to calm down. Tesponded, "How do you expect me to calm down, he hurt me in front of my son." LT1 asked where the cell phone was. \$37(2)(b) said that they could take the phone, she didn't care about it. LT1 said, "Just give him the phone and we'll release you." The officers wanted to leave the location and they asked \$37(2)(b) if they could leave her son with \$37(2)(b) stated that she was unwilling to do this. She wanted the officers to continue waiting for her father to return home, who she had just called. LT1 asked \$37(2)(b) if there was anyone else at home, and she said there was not. LT1 told \$37(2)(b) that if she was not willing to leave her son with her ex-boyfriend they might have to call ACS. \$37(2)(b) s friend, who lives on the \$37(2)(b) floor in her grandmother's apartment, emerged from the home, and agreed to watch her son. \$37(2)(b) was then transported to the stationhouse.

Upon arriving at the stationhouse, PO1 tried to pull \$87(2)(b) from the patrol car but \$100.000 from the patrol car but \$100.0000 fr told him not to touch her. PO Claxton responded that he was her arresting officer and he needed to bring her into the stationhouse. He then asked if she required medical attention, and she responded yes. § 87(2)(b) told him that he banged her against the wall and that she had breast implants and her left breast was hurting her. An 18-19-year-old Hispanic female prisoner, identified as § 87(2)(b) through the investigation, was sitting next to § 87(2)(b) on the bench in the same holding cell. § 87(2)(b) was crying and her left breast was swollen. PO Claxton reentered the holding cell area and asked § 37(2)(b) if she really needed medical attention. said "Look at me," indicating her left breast, and stated that it wasn't normal. PO Claxton said, "Well, I'm going to tell you right now if you get medical attention you make the process way slower." \$37(2)(b) responded that she didn't care, and that she needed to see a doctor. She then stated that she was entitled to a phone call and he had not yet let her do this. Under his breath, PO Claxton said, "You ain't getting no fucking phone call." He said then in a very loud voice, "Yeah, yeah, yeah, you're getting your phone call, relax" before leaving.

turned to \$87(2)(b) who was seated beside her, and asked, "Did you hear what he just said to me?" \$87(2)(b) told her not to say anything or they would "beat the shit out of" \$37(2)(b) s brother, \$87(2)(b) \$87(2)(b) s brother, \$87(2)(b) s br

Witness: § 87(2)(b)

- \$87(2)(b) is a \$87(2)(b) -old male with black hair and brown eyes. He weighs 190 pounds and is 5'9" tall.
- \$87(2)(b) was interviewed at the CCRB on May 10, 2009 (encl 9a-9e).

At about 3:00 PM on March 8, 2009, \$37(2)(b) and his girlfriend, \$37(2)(b) had a verbal argument during which she took the cell phone that she had given him as a Christmas gift, and returned to her residence at \$37(2)(b) in Brooklyn. \$37(2)(b) followed back to her apartment and repeatedly asked her to give back the phone, however \$37(2)(b) refused to return it and insisted that the phone was her property. \$37(2)(b) protested and warned, "If you don't give me the phone, I'm gonna have to call the cops." After he exited the apartment, \$37(2)(b) called 911 to report that someone had taken his phone. A marked patrol car carrying two uniformed officers arrived at the location. PO1 was identified as PO Sean Claxton, and PO2 was identified as PO Jonathan King.

When the officers approached, \$87(2)(5) explained that his girlfriend took his phone from him while they were in his car. § 87(2)(b) did not answer when PO Claxton approached the building and rang the bell, at which point PO Claxton asked §87(2)(b) whether he would like to file a report. §87(2)(b) confirmed that he would like to file a report. PO Claxton warned that if he goes ahead with the report, the officers would ultimately arrest \$37(2)(b) to which \$37(2)(b) object. About five to ten minutes after PO Claxton began filling out the police report, \$87(2)(b) came downstairs and opened the outer hallway door, which was made of glass. There was a second glass door that leads to the apartments on the floor. §87(2)(b) opened the hallway door for PO Claxton, PO King and \$87(2)(b) to enter. PO1 stood at the left corner, PO King stood at the right corner and \$87(2)(b) was in the middle. \$87(2)(b) stood two feet outside of the outer door. PO Claxton asked \$87(2)(b) said that she did, but stated that it was her phone because she bought it as a Christmas gift for \$87(2)(b) PO Claxton threatened to handcuff \$87(2)(b) if she refused to return the phone. Upon hearing this, \$87(2)(b) asked the officers to "forget about the phone" and asked them not to handcuff 887(2)(b) One of the officers rejected § 87(2)(b) s plea and informed § 87(2)(b) that § 87(2)(b) had to return the phone. An officer stated, "We gonna lock you up" to \$87(2)(b) if she refused to comply.

PO Claxton then grabbed and twisted \$37(2)(b) s left arm while pushing her forward to a corner wall of the hallway toward to where PO King was standing. \$37(2)(b) stated that PO Claxton "used too much force" in handcuffing \$37(2)(b) did not remember whether hit any object when she was pushed forward by PO Claxton. \$37(2)(b) was asking why she was being arrested, to which one of the officers answered that she was resisting arrest. \$37(2)(b) s son screamed as he stood by the inner glass door observing the incident. During this time, \$37(2)(b) overheard PO Claxton call \$37(2)(b) a "bitch." He did not recall the context, but believed that PO Claxton might have said, "Hey bitch." About eight to ten police cars arrived on the scene, with two officers in each vehicle.

Either PO Claxton or PO King asked, "Who do you want me to leave the kid with? I can leave him with him?" indicating \$87(2)(b) responded "No." The officer then asked again, at which point \$87(2)(b) told the officers that her parents would arrive any second. Either PO Claxton or PO King stated that the Department for Children Services would arrive to pick up her son right before \$87(2)(b) s friend arrived to care for him. \$87(2)(b) did not recall which officer had that conversation with \$87(2)(b) \$87(2)(c) followed the police to the stationhouse after \$87(2)(b) was transported there.

Attempts to Contact Civilian

was identified through the investigation as a witness to the alleged discourtesy in the stationhouse holding cell. Between August 6 and December 15, 2009, four phone calls and two letters were mailed to [587(2)(5)] regarding this case. However, she has not replied to these contact attempts.

NYPD Statement(s):

Subject Officer: PO SEAN CLAXTON

- PO Sean Claxton is a \$87(2)(b) -old black male with black hair and brown eyes. He is 5'8" tall and weighs 180 pounds.
- On March 8, 2009, PO Claxton worked from 7:05AM to 3:40PM and was assigned to sector patrol AB within the 83rd Precinct in RMP 1720. He was dressed in uniform and worked with PO Jonathan King.

Memobook

PO Claxton had the following entries in his memobook relating to this incident (encl 10a-10e):

1444: 1052F § 87(2)(b)

1456: Male accuses Girlfriend of stealing his cell phone in Queens. Rang doorbell and knock continuously on door of \$87(2)(b) No answer. Being to fill Report.

1503: Female perp steps outside of house to inquire about police presence.

1507: Female refuse to turn around and be placed under arrest when asked be me and my partner. Female began to flare arms in attempt to escape into house from my partner and I. We use necessary force to arrest perp who was resisting.

1517: Female arrested, Sgt. Danlevy on scene.

1525: 1084 @ 83 PCT.

1550: Female perp complained of chest pains. Notified desk officer Sgt. Anderson.

1555: Notified Central to send EMS.

CCRB Testimony

PO Sean Claxton was interviewed at the CCRB on October 21, 2009 (encl 13a-13c).

At approximately 3pm on March 8, 2009, PO Claxton and PO King received a radio run of a dispute between a boyfriend and girlfriend. They encountered a \$87(2)(5) when they arrived outside of the building. \$87(2)(5) told the officers that he saw his girlfriend steal his cell phone when she was in his car some time before. PO Claxton and PO King rang the doorbell of the building, but there was no answer. PO Claxton told \$87(2)(5) that they would file a police report about the stolen cell phone, and informed him that once the police report was filed, \$87(2)(5) would be located and arrested by a detective.

came downstairs while PO Claxton was speaking to \$87(2)(5) She held the door of a small vestibule entry door open while speaking to the officers, who stood just outside of it. PO Claxton asked her if she had \$87(2)(5) see s cell phone. She replied that she did not have the cell phone. PO Claxton stated "If you don't have his cell phone we're gonna have to arrest you because he seen you with his own eyes take the cell phone." PO Claxton did not state "We gonna lock you up" prior to \$87(2)(5) see arrest, but did tell her that if she did not give back the cell phone, they would have to arrest her.

At this point, \$37(2)(b) became irate and was yelling because she was upset that \$37(2)(b) called police. He then instructed her to turn around and put her hands behind her back, however \$37(2)(b) did not comply. In an attempt to escape, \$37(2)(b) closed the front door so as to prevent the officers from entering. PO Claxon grabbed \$37(2)(b) s forearm and stated, "Ma'am, please turn around and put your hands behind your back." He did not remember which arm he grabbed. She began pulling away in response. PO Claxton and PO King entered the room and physically turned \$37(2)(b) around; PO Claxton held one of her arms while PO King held the other arm. \$37(2)(b) was moving her body and flailing her arms. As he attempted to arrest her, \$37(2)(b) kicked PO Claxton in the leg, although he did not know whether it was her intention or not. In response to the kick, PO Claxton said, "Son of a bitch" to himself, and was not sure if \$37(2)(b) heard him. He did not intend the comment to be directed at her.

While attempting to arrest her, PO Claxton noticed a young boy who he understood her to be \$87(2)(0) son, standing on the other side of the inner door. PO Claxton closed the door so that the boy would not see what was going on. PO Claxton then handcuffed \$87(2)(0) He did not recall whether her body made contact with a wall. PO Claxton and PO King brought \$87(2)(0) outside following her arrest. PO Claxton held the handcuffs with one hand and \$87(2)(0) so a srm with his other arm as he escorted her outside. However, he is not sure whether this was exactly how she was escorted outside. While transporting her to the station house, PO Claxton asked \$87(2)(0) whether she had anyone to care for her children. \$87(2)(0) replied that her son was inside. PO Claxton asked if she had anyone to watch her son, to which \$87(2)(0) replied that her roommate would watch him.

When he went inside of her holding cell to ask a question, \$87(2)(b) responded that she did not want to talk with him, and stated that her brother is a police officer. PO Claxton was not aware of \$87(2)(b) so chest pain until her brother, PO \$87(2)(b) arrived at the station house and told the officers that his sister was experiencing chest pain. From inside the holding cell, \$87(2)(b) stated that she wanted to go to the hospital. She did not direct the request to PO Claxton, but rather stated it aloud. Since PO Claxton he was the only officer in the area, he notified the desk officer that \$87(2)(b) requested medical assistance.

PO Claxton stated that he did not use any profanity directly with \$87(2)(b) nor did he call her a "Bitch" directly or refer to her as a "Bitch." PO Claxton stated that he did not say "You ain't getting no fucking phone call."

Subject Officer: PO JONATHAN KING

- PO Jonathan King is a [87(2)(5)] -old white male with brown eyes and brown hair. He is 5'9" tall and weighs 175 pounds.
- On March 8, 2009, he and his partner, PO Sean Claxton, were assigned to patrol Sector AD in marked RMP 1720. PO King was dressed in uniform. At the time of this incident, PO King was an officer assigned to the 83rd Precinct; he has since been promoted to Sergeant and is currently assigned to PSA 1. For consistency, he will be referred to as PO King in this interview transcription.

Memobook

PO King has the following memobook entries regarding this incident (encl 15a-15b):

"1444: 52F § 87(2)(b)

1456 Male accuses girlfriend of stealing his cell phone in Queens

1507 Female refused to turn around and be placed under arrest. Female began to flair arms in attempt to escape into house. Perp arrested. Perp never complained of injuries at scene. Perp never takin to ground. Perp never struck.

1517: SGT Donlevi on scene.

1525 84 @ 83 PCT."

CCRB Testimony

PO King was interviewed at the CCRB on November 2, 2009 (encl 16a-16b).

PO King and PO Claxton responded to a radio call about a stolen cell phone at \$\frac{8}{27(2)(0)}\$ in Brooklyn. The officers arrived at the scene where a male, \$\frac{8}{27(2)(0)}\$ told them that his girlfriend was inside of the building and had stolen his cell phone. PO King and PO Claxton knocked on the door. \$\frac{8}{27(2)(0)}\$ answered and came downstairs to the vestibule of the building. \$\frac{8}{27(2)(0)}\$ held the door partially open as she spoke to the officers, who were standing outside of the door on the steps. \$\frac{8}{27(2)(0)}\$ appeared to be emotionally upset because her boyfriend had called the police. The officers asked if she had taken \$\frac{8}{27(2)(0)}\$ s cell phone, to which \$\frac{8}{27(2)(0)}\$ replied that she had, and that she would not return it.

The officers asked \$87(2)(b) to return the cell phone numerous times before one of the officers stated that she would be arrested. PO King did not remember who made that comment. \$27(2)(b) responded that she would not be arrested, and closed the entrance door of the vestibule so as to "slam the door in [their] face." PO King grabbed one of \$87(2)(b) s arms in an attempt to stop her. She then began flailing her arms, making it difficult to pull her hands around her back. In response, both PO Claxton and PO King forcibly put her hands behind her back. \$87(2)(b) s body made contact with a wall during the tussle when the officers "pinned" \$87(2)(b) against a wall in the vestibule that she was facing because it was the easiest way to handcuff her. PO King did not express any pain in response. PO King did not remember whether \$87(2)(b) said anything, nor did he remember who handcuffed her.

While in the patrol car, PO King discussed whether they could release custody of some son to a family member who lived in the building. PO King did not discuss ACS with and stated that neither he nor PO Claxton threatened to place her son in ACS custody. PO King did not accompany PO Claxton when he escorted station house for arrest processing.

PO King did not hear PO Claxton use profanity with \$87(2)(b) during this incident. He did not hear PO Claxton call \$87(2)(b) a "bitch", nor did he hear PO Claxton say "relax, bitch, relax."

Medical Records (encl. 17a-17x)
On \$87(2)(b) , \$87(2)(b) was treated at \$87(2)(b) for chest pains. According to \$87(2)(b) s statement, as well as hospital records, she underwent breast implant surgery in \$87(2)(b) medical records state the following: \$87(2)(b) experienced pain in her left breast; she rated her pain level a seven out of ten. According to the Nursing Care Record, \$87(2)(b) stated that a "police officer pushed her into the wall during arrest." She was diagnosed with a Chest Wall Contusion, and it was found that she may have suffered from a left breast implant leak following a CT Scan for the chest. It was recommended that \$87(2)(b) follow-up with her plastic surgeon for inquiry.
NYPD Document(s)
Status of Civil Proceedings • \$87(2)(b) filed a Notice of Claim in the amount of \$100,000 with the City of New York on \$87(2)(b) with regard to the incident (encl 8a-8h). \$87(2)(g) A 50-h hearing was held on \$87(2)(b)

Civilian(s) Criminal History • [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
 Civilian(s) CCRB History This is the first CCRB complaint involving \$87(2)(b) (encl 3b). This is the second CCRB case filed by \$87(2)(b) \$87(2)(b)
 Subject Officer(s) CCRB History PO Sean Claxton has been a member of the service for two years, and there are no substantiated CCRB allegations against him (encl. 2a). PO Jonathan King has been a member of the service for nine years, and there are no substantiated CCRB allegations against him (encl. 2b).
Conclusion
Identification of Subject Officer(s) PO Sean Claxton and PO Jonathan King confirmed that they interacted with \$87(2)(b) on the incident day. \$87(2)(g) Allegations Not Pleaded

Abuse of Authority- An officer threatened to notify the Administration for Children's Services. Following sarrest, an officer who was identified as a Lieutenant spoke with her regarding whose custody to place her son in. According to sown testimony, the Lieutenant informed her that the officers "might have to call ACS" if she did not allow them to leave her son with \$87(2)(5)
<u>Investigative Findings and Recommendations</u>
Allegation A- Force: PO Sean Claxton used physical force against \$87(2)(b) while placing her under arrest. Allegation B- Force: PO Jonathan King used physical force against \$87(2)(b) while placing her under arrest.
§ 87(2)(g)
was told several times that her refusal would ultimately lead to an arrest as her actions constituted petit larceny. Both PO Claxton and PO King stated that attempted to close the door and return to her apartment so as to evade the officers, at which point they entered the vestibule and "pinned" against the wall in order to handcuff her. \$\frac{87(2)(0)}{2}
§ 87(2)(g)
Allegation C- Offensive Language: PO Sean Claxton directed offensive language based upon sex at \$87(2)(b) heard PO Claxton say, "Relax, bitch, relax" and \$87(2)(b) heard PO Claxton call \$87(2)(b) a "bitch" and speculated that he may have said, "Hey bitch." PO Claxton admitted to using profanity that was not directed at \$87(2)(b) while administering her arrest. In his CCRB testimony, PO Claxton volunteered that he had said, "Son of a bitch" to himself as a response to th pain he felt from \$87(2)(b) s kick, which plausibly may have overheard by both \$87(2)(b) and and regarded as profanity that was directed at \$87(2)(b) \$87(2)(b) \$87(2)(c) \$

Allegation D- Discourtesy: PO Sean Claxton used profanity with \$87(2)(b) It was alleged that PO Claxton stated to \$87(2)(b) "You ain't getting no fucking phone call." The investigation was unable to reach the alleged witness to this statement, \$87(2)(b)							
§ 87(2)(g)	to reach the aneged withe	ss to this statement, section					
Team: <u>8</u>							
Investigator:Signature	Inessa Abayev_ Print						
Supervisor:							
Title/Signature Reviewer:	Print	Date					
Title/Signature Reviewer:	Print	Date					
Title/Signature	Print	Date					